

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the Accusation and  
Petition to Revoke Probation Against:**

**DAVID HARARI, M.D.**

**Physician's and Surgeon's  
Certificate No. G 50027**

**Respondent**

**Case No. 800-2015-015201**

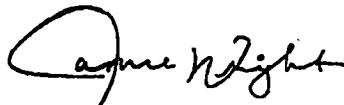
**DECISION AND ORDER**

**The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.**

**This Decision shall become effective at 5:00 p.m. on October 6, 2017.**

**IT IS SO ORDERED: September 6, 2017.**

**MEDICAL BOARD OF CALIFORNIA**



**Jamie Wright, J.D., Chair  
Panel A**

1 XAVIER BECERRA  
Attorney General of California  
2 ALEXANDRA M. ALVAREZ  
Supervising Deputy Attorney General  
3 LORI JEAN FORCUCCI  
Deputy Attorney General  
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8 *Attorneys for Complainant*

9  
10 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation and Petition to  
14 Revoke Probation Against:

15 **DAVID HARARI, M.D.**  
3661 Valley Centre Drive  
Suite 100  
16 San Diego, CA 92130-3321

17 **Physician's and Surgeon's Certificate**  
18 **No. G 50027,**

19 **Respondent.**

Case No. 800-2015-015201

OAH No. 2017060115

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
21 entitled proceedings that the following matters are true:

22 **PARTIES**

23 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board  
24 of California (Board). She brought this action solely in her official capacity and is represented in  
25 this matter by Xavier Becerra, Attorney General of the State of California, by Lori Jean Forcucci,  
26 Deputy Attorney General.

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2. Respondent David Harari, M.D. (Respondent) is represented in this proceeding by attorney David Rosenberg, Esq. whose address is Rosenberg, Shpall & Zeigen, APLC, Symphony Towers, 750 B Street, Suite 3210, San Diego, CA 92101.

3. On or about June 6, 1983, the Board issued Physician's and Surgeon's Certificate No. G 50027 to David Harari, M.D. Physician's and Surgeon's Certificate No. G 50027 was in full force and effect at all times relevant to the charges brought in Accusation and Petition to Revoke Probation No. 800-2015-015201, and will expire on November 30, 2018, unless renewed.

#### **JURISDICTION**

4. On March 22, 2017, Accusation and Petition to Revoke Probation No. 800-2015-015201 was filed before the Medical Board of California (Board), and is currently pending against Respondent. A true and correct copy of Accusation and Petition to Revoke Probation No. 800-2015-015201, was properly served on Respondent with all other statutorily required documents. On or about March 30, 2017, Respondent timely filed his Notice of Defense contesting the Accusation and Petition to Revoke Probation. A true and correct copy of Accusation and Petition to Revoke Probation No. 800-2015-015201 is attached as Exhibit A and incorporated herein by reference, as if set forth in full herein.

#### **ADVISEMENT AND WAIVERS**

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation and Petition to Revoke Probation No. 800-2015-015201. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation/Petition to Revoke Probation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an

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1 adverse decision; and all other rights accorded by the California Administrative Procedure Act  
2 and other applicable laws.

3 7. Having the benefit of counsel, Respondent voluntarily, knowingly, and intelligently  
4 waives and gives up each and every right set forth above.

5 **CULPABILITY**

6 8. Respondent agrees that, at an administrative hearing, complainant could establish a  
7 *prima facie* case with respect to the charges and allegations in Accusation and Petition to Revoke  
8 Probation No. 800-2015-015201, and that he has thereby subjected his Physician's and Surgeon's  
9 Certificate No. G 50027 to disciplinary action.

10 9. Respondent further agrees that if he ever petitions for early termination or  
11 modification of probation, or if an accusation and/or petition for revocation of probation is filed  
12 against him before the Medical Board of California, all of the charges and allegations contained  
13 in the Decision and Order in Case No. 10-2012-222742, which had an effective date of April 9,  
14 2015, and the Accusation and Petition to Revoke Probation No. 800-2015-015201, shall be  
15 deemed true, correct and fully admitted by Respondent for purposes of any such proceeding, or  
16 other licensing proceeding involving Respondent in the State of California.

17 **CONTINGENCY**

18 10. This Stipulated Settlement and Disciplinary Order shall be subject to approval by the  
19 Board. The parties agree that this Stipulated Settlement and Disciplinary Order shall be  
20 submitted to the Board for its consideration in the above-entitled matter and, further, that the  
21 Board shall have a reasonable period of time in which to consider and act on this Stipulated  
22 Settlement and Disciplinary Order after receiving it. By signing this stipulation, Respondent fully  
23 understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation  
24 prior to the time the Board considers and acts upon it. Respondent agrees that his Physician's and  
25 Surgeon's Certificate No. G 50027 is subject to discipline and he agrees to be bound by the  
26 Board's probationary terms as set forth in the Disciplinary Order below.

27 11. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null  
28 and void and not binding upon the parties unless approved and adopted by the Board, except for

1 this paragraph, which shall remain in full force and effect. Respondent fully understands and  
2 agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and  
3 Disciplinary Order, the Board may receive oral and written communications from its staff  
4 and/or the Attorney General's Office. Communications pursuant to this paragraph shall not  
5 disqualify the Board, any member thereof, and/or any other person from future participation in  
6 this or any other matter affecting or involving Respondent. In the event that the Board does not,  
7 in its discretion, approve and adopt this stipulation as its Decision and Order, the Stipulated  
8 Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall  
9 be inadmissible in any legal action between the parties, and the Board shall not be disqualified  
10 from further action by having considered this matter. Respondent further agrees that should this  
11 Stipulated Settlement and Disciplinary Order be rejected for any reason by the Board, Respondent  
12 will assert no claim that the Board, or any member thereof, was prejudiced by its/his/her review,  
13 discussion and/or consideration of this Stipulated Settlement and Disciplinary Order or of any  
14 matter or matters related hereto.

#### 15 **ADDITIONAL PROVISIONS**

16 12. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to  
17 be an integrated writing representing the complete, final and exclusive embodiment of the  
18 agreements of the parties in the above-entitled matter.

19 13. The parties understand and agree that Portable Document Format (PDF) and facsimile  
20 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile  
21 signatures thereto, shall have the same force and effect as the originals.

22 14. In consideration of the foregoing admissions and stipulations, the parties agree the  
23 Board may, without further notice to or opportunity to be heard by Respondent, issue and enter  
24 the following Disciplinary Order:

#### 25 **DISCIPLINARY ORDER**

26 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 50027 issued  
27 to Respondent David Harari, M.D. is revoked. However, the revocation is stayed and Respondent  
28 is placed on probation for an additional one (1) year on the following terms and conditions. The

one (1) year term of probation under this Disciplinary Order shall begin upon the conclusion of Respondent's probation in Case No. 10-2012-222742 (*i.e.*, at midnight on April 8, 2018), and the remaining terms of probation shall run concurrently with all other terms and conditions of probation previously ordered in the Decision and Order in Medical Board of California Case No. 10-2012-222742. The effective date of the Medical Board's Decision in Case No. 800-2015-015201 shall be "the effective date," as set forth below.

1. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours per year, for the additional one (1) year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge (ectopic pregnancy) and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

2. MEDICAL RECORD KEEPING. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A medical record keeping course successfully completed during Respondent's probation in Case No. 10-2012-222742 will be accepted towards the fulfillment of this condition if the

1 course would have been approved by the Board or its designee had the course been taken after the  
2 effective date of this Decision.

3 Respondent shall submit a certification of successful completion to the Board or its  
4 designee not later than 15 calendar days after successfully completing the course, or not later than  
5 15 calendar days after the effective date of the Decision, whichever is later.

6 3. CLINICAL COMPETENCE ASSESSMENT PROGRAM. Within 60 calendar days  
7 of the effective date of this Decision, Respondent shall enroll in a clinical competence assessment  
8 program approved in advance by the Board or its designee. A Clinical Competence Assessment  
9 Program successfully completed during Respondent's probation in Case No. 10-2012-222742 will  
10 be accepted towards the fulfillment of this condition if the course would have been approved by  
11 the Board or its designee had the course been taken after the effective date of this Decision.

12 Respondent shall successfully complete the program not later than six (6) months after  
13 Respondent's initial enrollment unless the Board or its designee agrees in writing to an extension  
14 of that time.

15 The program shall consist of a comprehensive assessment of Respondent's physical and  
16 mental health and the six general domains of clinical competence as defined by the Accreditation  
17 Council on Graduate Medical Education and American Board of Medical Specialties pertaining to  
18 Respondent's current or intended area of practice. The program shall take into account data  
19 obtained from the pre-assessment, self-report forms and interview, and the Decision(s),  
20 Accusation(s), and any other information that the Board or its designee deems relevant. The  
21 program shall require Respondent's on-site participation for a minimum of three (3) and no more  
22 than five (5) days as determined by the program for the assessment and clinical education  
23 evaluation. Respondent shall pay all expenses associated with the clinical competence  
24 assessment program.

25 At the end of the evaluation, the program will submit a report to the Board or its designee  
26 which unequivocally states whether the Respondent has demonstrated the ability to practice  
27 safely and independently. Based on Respondent's performance on the clinical competence  
28 assessment, the program will advise the Board or its designee of its recommendation(s) for the

1 scope and length of any additional educational or clinical training, evaluation or treatment for any  
2 medical condition or psychological condition, or anything else affecting Respondent's practice of  
3 medicine. Respondent shall comply with the program's recommendations.

4 Determination as to whether Respondent successfully completed the clinical competence  
5 assessment program is solely within the program's jurisdiction.

6 If Respondent fails to enroll, participate in, or successfully complete the clinical  
7 competence assessment program within the designated time period, Respondent shall receive a  
8 notification from the Board or its designee to cease the practice of medicine within three (3)  
9 calendar days after being so notified. The Respondent shall not resume the practice of medicine  
10 until enrollment or participation in the outstanding portions of the clinical competence assessment  
11 program have been completed. If the Respondent did not successfully complete the clinical  
12 competence assessment program, the Respondent shall not resume the practice of medicine until a  
13 final decision has been rendered on the accusation and/or a petition to revoke probation. The  
14 cessation of practice shall not apply to the reduction of the probationary time period.

15 4. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the  
16 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the  
17 Chief Executive Officer at every hospital where privileges or membership are extended to  
18 Respondent, at any other facility where Respondent engages in the practice of medicine,  
19 including all physician and locum tenens registries or other similar agencies, and to the Chief  
20 Executive Officer at every insurance carrier which extends malpractice insurance coverage to  
21 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15  
22 calendar days.

23 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

24 5. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE  
25 NURSES. During probation, Respondent is prohibited from supervising physician assistants and  
26 advanced practice nurses.

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1       6.   OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules  
2 governing the practice of medicine in California and remain in full compliance with any court  
3 ordered criminal probation, payments, and other orders.

4       7.   QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations  
5 under penalty of perjury on forms provided by the Board, stating whether there has been  
6 compliance with all the conditions of probation.

7       Respondent shall submit quarterly declarations not later than 10 calendar days after the end  
8 of the preceding quarter.

9       8.   GENERAL PROBATION REQUIREMENTS.

10      Compliance with Probation Unit - Respondent shall comply with the Board's probation  
11 unit.

12      Address Changes - Respondent shall, at all times, keep the Board informed of Respondent's  
13 business and residence addresses, email address (if available), and telephone number.

14      Changes of such addresses shall be immediately communicated in writing to the Board or  
15 its designee. Under no circumstances shall a post office box serve as an address of record,  
16 except as allowed by Business and Professions Code section 2021(b).

17      Place of Practice - Respondent shall not engage in the practice of medicine in Respondent's  
18 or patient's place of residence, unless the patient resides in a skilled nursing facility or other  
19 similar licensed facility.

20      License Renewal - Respondent shall maintain a current and renewed California physician's  
21 and surgeon's license.

22      Travel or Residence Outside California - Respondent shall immediately inform the Board or  
23 its designee, in writing, of travel to any areas outside the jurisdiction of California which  
24 lasts, or is contemplated to last, more than thirty (30) calendar days.

25      In the event Respondent should leave the State of California to reside or to practice,  
26 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of  
27 departure and return.

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1       9.   INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be  
2 available in person upon request for interviews either at Respondent's place of business or at the  
3 probation unit office, with or without prior notice throughout the term of probation.

4       10. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or  
5 its designee in writing within 15 calendar days of any periods of non-practice lasting more than  
6 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is  
7 defined as any period of time Respondent is not practicing medicine as defined in Business and  
8 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct  
9 patient care, clinical activity or teaching, or other activity as approved by the Board. If  
10 Respondent resides in California and is considered to be in non-practice, Respondent shall  
11 comply with all terms and conditions of probation. All time spent in an intensive training  
12 program which has been approved by the Board or its designee shall not be considered non-  
13 practice and does not relieve Respondent from complying with all the terms and conditions of  
14 probation. Practicing medicine in another state of the United States or Federal jurisdiction while  
15 on probation with the medical licensing authority of that state or jurisdiction shall not be  
16 considered non-practice. A Board-ordered suspension of practice shall not be considered as a  
17 period of non-practice.

18       In the event Respondent's period of non-practice while on probation exceeds 18 calendar  
19 months, Respondent shall successfully complete the Federation of State Medical Board's Special  
20 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program  
21 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model  
22 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

23       Respondent's period of non-practice while on probation shall not exceed two (2) years.

24       Periods of non-practice will not apply to the reduction of the probationary term.

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1       Periods of non-practice for a Respondent residing outside of California will relieve  
2 Respondent of the responsibility to comply with the probationary terms and conditions with the  
3 exception of this condition and the following terms and conditions of probation: Obey All Laws;  
4 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or  
5 Controlled Substances; and Biological Fluid Testing.

6       11. COMPLETION OF PROBATION. Respondent shall comply with all financial  
7 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the  
8 completion of probation. Upon successful completion of probation, Respondent's certificate shall  
9 be fully restored.

10       12. VIOLATION OF PROBATION. Failure to fully comply with any term or condition  
11 of probation is a violation of probation. If Respondent violates probation in any respect, the  
12 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and  
13 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,  
14 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have  
15 continuing jurisdiction until the matter is final, and the period of probation shall be extended until  
16 the matter is final.

17       13. LICENSE SURRENDER. Following the effective date of this Decision, if  
18 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy  
19 the terms and conditions of probation, Respondent may request to surrender his or her license.  
20 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in  
21 determining whether or not to grant the request, or to take any other action deemed appropriate  
22 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent  
23 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its  
24 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject  
25 to the terms and conditions of probation. If Respondent re-applies for a medical license, the  
26 application shall be treated as a petition for reinstatement of a revoked certificate.

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1 14. PROBATION MONITORING COSTS. Respondent shall pay the costs associated  
2 with probation monitoring each and every year of probation, as designated by the Board, which  
3 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of  
4 California and delivered to the Board or its designee no later than January 31 of each calendar  
5 year.

6 ACCEPTANCE

7 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
8 discussed it with my attorney, David Rosenberg, Esq. I understand the stipulation and the effect  
9 it will have on my Physician's and Surgeon's Certificate No. G 50027. I enter into this Stipulated  
10 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be  
11 bound by the Decision and Order of the Medical Board of California.

12  
13 DATED: 8/1/17

  
14 DAVID HARARI, M.D.  
15 Respondent

16 I have read and fully discussed with Respondent David Harari, M.D. the terms and  
17 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
18 I approve its form and content.

19  
20 DATED: 8/1/17

  
21 DAVID ROSENBERG, ESQ.  
22 Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

Dated: 8.1.17

Respectfully submitted,

XAVIER BECERRA  
Attorney General of California  
ALEXANDRA M. ALVAREZ  
Supervising Deputy Attorney General

  
LORI JEAN FORCUCCI  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation and Petition to Revoke Probation No. 800-2015-015201**

1 XAVIER BECERRA  
Attorney General of California  
2 ALEXANDRA M. ALVAREZ  
Supervising Deputy Attorney General  
3 LORI JEAN FORCUCCI  
Deputy Attorney General  
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8 *Attorneys for Complainant*

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO MARCH 22, 2017  
BY: [Signature] ANALYST

9  
10 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

12  
13 **In the Matter of the Accusation and Petition**  
**to Revoke Probation Against:**

Case No. 800-2015-015201

14 **David Harari, M.D.**  
15 **3661 Valley Centre Drive**  
16 **Suite 100**  
**San Diego, CA 92130-3321**

**ACCUSATION AND PETITION TO  
REVOKE PROBATION**

17 **Physician's and Surgeon's Certificate**  
18 **No. G 50027,**

19 **Respondent.**

20 Complainant alleges:

21 **PARTIES**

22 1. Kimberly Kirchmeyer (Complainant) brings this Accusation and Petition to Revoke  
23 Probation solely in her official capacity as the Executive Director of the Medical Board of  
24 California.

25 2. On or about June 6, 1983, the Medical Board issued Physician's and Surgeon's  
26 Certificate No. G 50027 to David Harari, M.D. (Respondent). Physician's and Surgeon's  
27 Certificate G 50027 was in full force and effect at all times relevant to the charges brought herein  
28 and will expire on November 30, 2018, unless renewed.

## LICENSE HISTORY

3. In a prior disciplinary action before the Medical Board of California entitled *In the Matter of the Accusation Against David Harari, M.D.*, MBC Case No. 10-2012-222742, pursuant to a Decision and Order effective April 9, 2015, Respondent's Physician's and Surgeon's Certificate G 50027 was revoked; however revocation was stayed and Respondent's medical license was placed on probation for a period of three (3) years, subject to certain terms and conditions. A true and correct copy of the Board's Decision and Order is attached as Exhibit A and is incorporated by reference as if fully set forth herein.

## JURISDICTION

4. This Accusation and Petition to Revoke Probation is brought before the Medical Board of California (Board), Department of Consumer Affairs, under the authority of the following laws and the Medical Board's Decision in the case entitled *In the Matter of the Accusation Against David Harari, M.D.*, Case No. 10-2012-222742. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

5. Section 2227 of the Code states, in pertinent part:

"(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

"(1) Have his or her license revoked upon order of the board.

"(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

"(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

"(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.



1           “(5) Have any other action taken in relation to discipline as part of an order of  
2 probation, as the board or an administrative law judge may deem proper.

3           “ ...”

4           6.       Section 2234 of the Code, states, in pertinent part:

5           “The board shall take action against any licensee who is charged with  
6 unprofessional conduct. In addition to other provisions of this article, unprofessional  
7 conduct includes, but is not limited to, the following:

8           “(a) Violating or attempting to violate, directly or indirectly, assisting in or  
9 abetting the violation of, or conspiring to violate any provision of this chapter.

10          “(b) Gross negligence.

11          “(c) Repeated negligent acts. To be repeated, there must be two or more  
12 negligent acts or omissions. An initial negligent act or omission followed by a  
13 separate and distinct departure from the applicable standard of care shall constitute  
14 repeated negligent acts.

15          “(1) An initial negligent diagnosis followed by an act or omission medically  
16 appropriate for that negligent diagnosis of the patient shall constitute a single  
17 negligent act.

18          “(2) When the standard of care requires a change in the diagnosis, act, or  
19 omission that constitutes the negligent act described in paragraph (1), including, but  
20 not limited to, a reevaluation of the diagnosis or a change in treatment, and the  
21 licensee's conduct departs from the applicable standard of care, each departure  
22 constitutes a separate and distinct breach of the standard of care.

23          “ ...”

24          7.       Section 2266 of the Code states: “The failure of a physician and surgeon to maintain  
25 adequate and accurate records relating to the provision of services to their patients constitutes  
26 unprofessional conduct.”

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Gross Negligence)**

3 8. Respondent David Harari, M.D. has subjected his Physician's and Surgeon's  
4 Certificate No. G 50027 to disciplinary action under sections 2227 and 2334, subdivision (b), of  
5 the Code, in that he committed acts of gross negligence in his care and treatment of patient H.J.  
6 The circumstances are as follows:

7 9. On or about January 14, 2015, patient H.J., a 31 year-old woman, presented to  
8 Respondent for a gynecological/obstetric appointment. Patient H.J. was pregnant for the first  
9 time, and had not delivered (G1 P0), with a last menstrual period (LPM) of December 1, 2014.  
10 She had been previously seen at an emergency room, having presented with right flank pain. A  
11 prior ultrasound showed a thickened endometrium,<sup>1</sup> and no ectopic pregnancy. Respondent  
12 documented that patient H.J.'s prior quantitative human chorionic gonadotropin (HCG)<sup>2</sup> test had  
13 yielded a level of 900 milli-international units per milliliter (mIU/ml), and that a subsequent  
14 quantitative HCG test on or about January 11, 2015, had yielded a result of 382 mIU/ml.  
15 Respondent documented a prior patient history of vaginal bleeding, and her right flank pain.  
16 Also, on or about January 14, 2015, Respondent performed and documented a pelvic examination  
17 with normal results, and a breast examination of patient H.J. A HCG test and pelvic ultrasound  
18 were ordered. Respondent documented a differential diagnosis of a possible ectopic pregnancy<sup>3</sup>  
19 versus a tubal abortion versus a spontaneous abortion.

20 ///

21 \_\_\_\_\_  
22 <sup>1</sup> The lining of the uterus, the endometrium, thickens every month in preparation for  
23 pregnancy. If pregnancy does not occur, the lining is shed.

24 <sup>2</sup> HCG is a hormone that appears in the blood and urine of pregnant women soon after  
25 conception. A quantitative HCG test measures the level of the hormone in blood or urine and can  
26 be used to determine the age of a fetus or diagnose abnormal pregnancies, such as ectopic  
27 pregnancies.

28 <sup>3</sup> An ectopic pregnancy occurs when a fertilized egg implants itself outside of the uterus,  
typically in a fallopian tube. Although an ectopic pregnancy can resolve itself with minimal or no  
physical harm to the mother by spontaneous or tubal abortion, it can also continue to grow and  
cause the fallopian tube or other abdominal organs to rupture, and cause internal bleeding.

1           10. On or about January 14, 2015, Respondent failed to perform the following actions,  
2 tests, and/or treatments, or document the following information in patient H.J.'s medical records:

3           (a) Respondent failed to perform and/or document performing an abdominal examination  
4 on patient H.J.;

5           (b) Respondent failed to document the current status of patient H.J.'s right flank pain  
6 status;

7           (c) After reaching a differential diagnosis of a possible ectopic pregnancy versus a tubal  
8 abortion versus a spontaneous abortion, Respondent failed to provide ectopic warnings and/or  
9 document whether ectopic warnings were given to patient H.J., which would include but not be  
10 limited to, a warning to return on an emergent basis for increased pain, dizziness or bleeding, and  
11 an explanation of the significance of each; and

12           (d) After reaching a differential diagnosis of a possible ectopic pregnancy versus a tubal  
13 abortion versus a spontaneous abortion, Respondent failed to advise patient H.J., and/or document  
14 advising patient H.J. of the risks of a working diagnosis of tubal ectopic or tubal abortion, and  
15 identify alternatives of care, including but not limited to careful and close follow up tests;  
16 diagnostic laparoscopic surgery; or methotrexate<sup>4</sup> and inherent risks.

17           11. On or about January 16, 2015, patient H.J.'s ultrasound showed a heterogeneous  
18 unorganized solid tissue (the mass) with no doppler flow<sup>5</sup> adjacent to the right ovary and free  
19 fluid in the peritoneal cavity.<sup>6</sup> Respondent concluded that patient H.J. had a  
20 reabsorbing/resolving ectopic pregnancy that seemed to correlate with the decreasing HCG test  
21 results. After patient H.J.'s ultrasound results showed the mass, no follow up ultra sound was  
22 planned, ordered or performed. No baseline CBC was planned, ordered or performed.  
23 Respondent failed to document whether patient H.J. was Rh negative.

24           <sup>4</sup> Methotrexate is a medicine that stops cells from dividing. It can be used to treat a  
25 pregnancy that's implanted outside the uterus (ectopic pregnancy).

26           <sup>5</sup> A Doppler ultrasound test uses reflected sound waves to show blood flowing through a  
27 blood vessel.

28           <sup>6</sup> The peritoneal cavity is a potential space between the parietal peritoneum and visceral  
peritoneum.

12. On or about January 19, 2015, a repeat HCG test result showed a HCG of 222 mIU/ml, and Respondent followed up with patient H.J. by telephone.

(a) Respondent failed to provide ectopic warnings and/or document whether ectopic warnings were given to patient H.J. during the telephone call, which would include but not be limited to, a warning to return on an emergent basis for increased pain, dizziness or bleeding, and an explanation of the significance of each; and

(b) Respondent failed to advise patient H.J., on the telephone call, and/or document advising patient H.J. of the risks of a working diagnosis of tubal ectopic or tubal abortion, and identify alternatives of care, including but not limited to careful and close follow up tests; diagnostic laparoscopic surgery; or methotrexate<sup>7</sup> and inherent risks.

13. On or about January 26, 2015, patient H.J. returned to Respondent for a follow-up visit. Respondent performed a pelvic examination and breast examination on patient H.J. Heavy menstruation and a normal gynecological examination were noted, and Respondent assessed hypothyroidism. Respondent's plan was to order a thyrotropin-releasing hormone (TRH) test.

14. On or about January 26, 2015, Respondent failed to perform the following actions, tests and/or treatments, or document the following information in patient H.J.'s medical records:

(a) Respondent failed to perform and/or document performing an abdominal examination on patient H.J.;

(b) Respondent failed to document the current status of patient H.J.'s right flank pain status;

(c) Respondent failed to warn and/or document whether ectopic warnings, including but not limited to, returning on an emergent basis for increased pain, dizziness or bleeding, and an explanation of the significance of each, were given to patient H.J.;

(d) Respondent failed to advise, and/or document advising patient H.J. of the risks of a working diagnosis of tubal ectopic or tubal abortion and identify the alternatives of care, including but not limited to careful and close follow up tests; diagnostic laparoscopic surgery; or

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<sup>7</sup> Methotrexate is a medicine that stops cells from dividing. It can be used to treat a pregnancy that's implanted outside the uterus (ectopic pregnancy).

1 methotrexate and inherent risks;

2 (e) Respondent failed to order follow-up examinations, a complete blood count (CBC), a  
3 Rhesus (Rh) factor test or a repeat ultrasound for patient H.J.; and

4 (f) Respondent failed to offer patient H.J. alternatives for following or treating the  
5 working diagnoses of incomplete abortion without complications or tubal abortion.

6 15. Respondent failed to consider, recognize and/or document that he considered or  
7 recognized that patient H.J. suffered from, or possibly suffered from, a persistent or chronic  
8 ectopic pregnancy.<sup>8</sup>

9 16. After her appointment with Respondent on or about January 26, 2015, patient H.J.  
10 travelled to Washington State. On or about January 30, 2015, patient H.J. suffered abdominal  
11 pain and presented to an urgent care center. She was then transferred to a hospital. An ultrasound  
12 performed on or around January 30, 2015, showed that the pelvic mass had grown since the  
13 previous ultrasound was ordered by Respondent. Patient H.J.'s ovary showed, among other  
14 things, fibrovascular adhesions and evidence of acute hemorrhage. She underwent a laparoscopic  
15 right salpingo-oophorectomy and her right fallopian tube and ovary were removed during the  
16 surgery.

17 17. Respondent committed gross negligence in his care and treatment of patient H.J.,  
18 which included, but was not limited to, engaging in a medical approach to the treatment of patient  
19 H.J. that failed to appropriately provide medical care for an ectopic pregnancy.

## 20 **SECOND CAUSE FOR DISCIPLINE**

### 21 **(Repeated Negligent Acts)**

22 18. Respondent David Harari, M.D., has further subjected his Physician's and Surgeon's  
23 Certificate No. G 50027 to disciplinary action under sections 2227 and 2334, subdivision (c), of  
24 the Code, in that he committed repeated acts of negligence in his care and treatment of patient  
25 H.J., as more particularly alleged hereinafter:

26 <sup>8</sup> In a persistent or chronic ectopic pregnancy, there are continuing minor ruptures of an  
27 ectopic pregnancy instead of one single episode of bleeding. The continuing ruptures can incite  
28 an inflammatory response. A gradual disintegration of the tubal wall, with slow and/or repeated  
episodes of hemorrhaging, often can lead to the formation of a pelvic mass.

1           19. Paragraphs 8 to 17, above, are hereby incorporated by reference and realleged as if  
2 fully set forth herein.

3           20. Respondent committed gross negligence in his care and treatment of patient H.J.,  
4 which included, but was not limited to, engaging in a medical approach to the treatment of patient  
5 H.J. that failed to appropriately provide medical care for an ectopic pregnancy; and

6           21. Respondent failed to appropriately document patient H.J.'s medical records.

7                                   **THIRD CAUSE FOR DISCIPLINE**

8                                   **(Failure to Maintain Adequate and Accurate Records)**

9           22. Respondent David Harari, M.D., has further subjected his Physician's and Surgeon's  
10 Certificate No. G 50027 to disciplinary action under sections 2227 and 2266, of the Code, in that  
11 he failed to maintain adequate and accurate records relating to the provision of services to patient  
12 H.J. as more particularly alleged hereinafter:

13           23. Paragraphs 8 to 21, above, are hereby incorporated by reference and realleged as if  
14 fully set forth herein.

15                                   **FOURTH CAUSE FOR DISCIPLINE**

16                                   **(Violating or Attempting to Violate, Directly or Indirectly,  
17 Any Provision of the Medical Practice Act)**

18           24. Respondent David Harari, M.D., has further subjected his Physician's and Surgeon's  
19 Certificate No. G 50027 to disciplinary action under sections 2227 and 2234, subdivision (a), of  
20 the Code in that he violated or attempted to violate, directly or indirectly, one or more provisions  
21 of the Medical Practice Act as more particularly alleged hereinafter:

22           25. Paragraphs 8 to 23, above, and paragraph 26, below, are hereby incorporated by  
23 reference and realleged as if fully set forth herein.

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1 **CAUSE TO REVOKE PROBATION**

2 **(Failure to Obey All Laws)**

3 26. At all times after the effective date of the Board's Decision and Order in case  
4 No. 10-2012-222742, Respondent's probation condition 6 stated:

5 "Respondent shall obey all federal, state and local laws, all rules governing the  
6 practice of medicine in California and remain in full compliance with any court ordered  
7 criminal probation, payments and other orders."

8 27. Respondent's probation is subject to revocation because he failed to comply with  
9 probation condition 6, referenced above, in that he failed to obey sections 2334, subdivisions (a),  
10 (b), and (c), and 2266, of the Code, as more particularly alleged hereafter:

11 28. Paragraphs 8 to 25, above, are hereby incorporated by reference and realleged as if  
12 fully set forth herein.

13 **DISCIPLINARY CONSIDERATIONS**

14 29. To determine the degree of discipline, if any, to be imposed on Respondent David  
15 Harari, M.D., Complainant alleges that on or about October 2, 2006, in a prior disciplinary action  
16 before the Medical Board of California, entitled *In the Matter of the Accusation Against David*  
17 *Harari, M.D.*, Case No. 10-2002-141183, Respondent was publically reprimanded for failing to  
18 maintain adequate and accurate records in his care and treatment of a patient and, further, was  
19 ordered to: (a) successfully complete a course in medical record keeping; (b) provide a copy of the  
20 Accusation and Decision and Order in Case No. 10-2002-141183 to every hospital and facility  
21 where he enjoyed privileges or membership; and (c) obey all laws. That decision is now final and  
22 is incorporated by reference as if fully set forth herein.

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**PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking the probation that was granted to Respondent David Harari, M.D. by the Medical Board of California in Case No. 10-2012-222742, and imposing the disciplinary order that was stayed, thereby revoking Physician's and Surgeon's Certificate No. G 50027, issued to Respondent David Harari, M.D.;

2. Revoking or suspending Physician's and Surgeon's Certificate No. G 50027, issued to Respondent David Harari, M.D.;

3. Revoking, suspending or denying approval of Respondent David Harari, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code, and advanced practice nurses, pursuant to section 2227 of the Code;

4. Ordering Respondent David Harari, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

5. Taking such other and further action as deemed necessary and proper.

DATED: March 22, 2017


  
KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
State of California  
*Complainant*



EXHIBIT A

BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against: )

DAVID HARARI, M.D. )

Case No. 10-2012-222742

Physician's and Surgeon's  
Certificate No. G 50027 )

Respondent. )  
\_\_\_\_\_ )

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Medical Board of California, Department of Consumer Affairs, State of California, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on April 9, 2015.

IT IS SO ORDERED March 10, 2015.

MEDICAL BOARD OF CALIFORNIA

By: \_\_\_\_\_

Jamie Wright, J.D., Chair  
Panel A

1 KAMALA D. HARRIS  
Attorney General of California  
2 THOMAS S. LAZAR  
Supervising Deputy Attorney General  
3 LORI JEAN FORCUCCI  
Deputy Attorney General  
4 State Bar No. 125345  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2080  
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

9  
10 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 10-2012-222742

14 **DAVID HARARI, M.D.**  
15 **5525 Grossmont Center Drive**  
**La Mesa, CA 91942**

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

16 **Physician's and Surgeon's Certificate**  
17 **No. G50027,**

Respondent.

18  
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Kimberly Kirchmeyer (complainant) is the Executive Officer of the Medical Board of  
23 California. She brought this action solely in her then official capacity as the Interim Executive  
24 Director of the Medical Board of California, and is represented in this matter by Kamala D.  
25 Harris, Attorney General of the State of California, by Lori Jean Forcucci, Deputy Attorney  
26 General.

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1           2.     Respondent David Harari, M.D. (respondent). is represented in this proceeding by  
2 Daniel S. Belsky, Esq., whose address is 591 Camino de la Reina, Suite 640, San Diego, CA  
3 92108.

4           3.     On or about June 6, 1983, the Medical Board of California issued Physician's and  
5 Surgeon's Certificate No. G50027 to respondent David Harari, M.D. Physician's and Surgeon's  
6 Certificate No. G50027 was in full force and effect at all times relevant to the charges and  
7 allegations brought in Accusation No. 10-2012-222742, and will expire on November 30, 2016,  
8 unless renewed.

9                                   JURISDICTION

10           4.     On October 17, 2013, Accusation No. 10-2012-222742 was filed before the Medical  
11 Board of California (Board), Department of Consumer Affairs, and is currently pending against  
12 respondent. On October 17, 2013, a true and correct copy of Accusation No. 10-2012-222742  
13 and true and correct copies of all other statutorily required documents were properly served on  
14 respondent at his address of record which was and is: 5525 Grossmont Center Drive, La Mesa,  
15 CA 91942. On November 19, 2013, respondent timely filed his Notice of Defense contesting the  
16 Accusation. A true and correct copy of Accusation No. 10-2012-222742 is attached hereto as  
17 Exhibit A and incorporated herein by reference as if fully set forth herein.

18                                   ADVISEMENT AND WAIVERS

19           5.     Respondent has carefully read, fully discussed with counsel, and fully understands the  
20 charges and allegations in Accusation No. 10-2012-222742. Respondent has also carefully read,  
21 fully discussed with counsel, and understands the effects of this Stipulated Settlement and  
22 Disciplinary Order.

23           6.     Respondent is fully aware of his legal rights in this matter, including the right to a  
24 hearing on the charges and allegations in the Accusation No. 10-2012-222742; the right to  
25 confront and cross-examine the witnesses against him; the right to present evidence and to testify  
26 on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses  
27 and the production of documents; the right to reconsideration and court review of an adverse  
28 decision; and all other rights accorded by the California Administrative Procedure Act and other

1 applicable laws. having been fully advised of same by his attorney of record, Daniel S. Belsky,  
2 Esq.

3 7. Respondent, having the benefit of counsel, hereby voluntarily, knowingly, and  
4 intelligently waives and gives up each and every right set forth above.

### 5 CULPABILITY

6 8. Respondent agrees that, at an administrative hearing, complainant could establish a  
7 *prima facie* case with respect to the charges and allegations contained in Accusation No. 10-2012-  
8 222742, a copy of which is attached hereto as Exhibit A, and that he has thereby subjected his  
9 Physician's and Surgeon's Certificate No. G50027 to disciplinary action. Respondent further  
10 agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order  
11 below.

12 9. Respondent agrees that if he ever petitions for early termination or modification of  
13 probation, or if an accusation and/or petition to revoke probation is filed against him before the  
14 Medical Board of California, all of the charges and allegations contained in Accusation No.  
15 10-2012-222742 shall be deemed true, correct and fully admitted by respondent for purposes of  
16 any such proceeding, or any other licensing proceeding involving respondent in the State of  
17 California, or elsewhere.

### 18 CONTINGENCY

19 10. The parties agree that this Stipulated Settlement and Disciplinary Order shall be  
20 submitted to the Board for its consideration in the above-entitled matter and, further, that the  
21 Board shall have a reasonable period of time in which to consider and act on this Stipulated  
22 Settlement and Disciplinary Order after receiving it. By signing this stipulation respondent fully  
23 understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation  
24 prior to the time the Board considers and acts upon it.

25 11. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null  
26 and void and not binding upon the parties unless approved and adopted by the Board, except for  
27 this paragraph, which shall remain in full force and effect. Respondent fully understands and  
28 agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and

1 Disciplinary Order, the Board may receive oral and written communications from its staff and/or  
2 the Attorney General's office. Communications pursuant to this paragraph shall not disqualify the  
3 Board, any member thereof, and/or any other person from future participation in this or any other  
4 matter affecting or involving respondent. In the event that the Board, in its discretion, does not  
5 approve and adopt this Stipulated Settlement and Disciplinary Order, with the exception of this  
6 paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall  
7 not be relied upon or introduced in any disciplinary action by either party hereto. Respondent  
8 further agrees that should the Board reject this Stipulated Settlement and Disciplinary Order for  
9 any reason, respondent will assert no claim that the Board, or any member thereof, was  
10 prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Settlement and  
11 Disciplinary Order or of any matter or matters related hereto.

#### 12 ADDITIONAL PROVISIONS

13 12. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to  
14 be an integrated writing representing the complete, final and exclusive embodiment of the  
15 agreements of the parties in the above-entitled matter.

16 13. The parties agree that copies of this Stipulated Settlement and Disciplinary Order,  
17 including copies of the signatures of the parties, may be used in lieu of original documents and  
18 signatures and, further, that copies shall have the same force and effect as originals.

19 14. In consideration of the foregoing admissions and stipulations, the parties agree the  
20 Board may, without further notice to or opportunity to be heard by respondent, issue and enter the  
21 following Disciplinary Order:

#### 22 DISCIPLINARY ORDER

23 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G50027 issued  
24 to respondent David Harari, M.D. (respondent) is revoked. However, the revocation is stayed and  
25 respondent is placed on probation for three (3) years from the effective date of this Decision on  
26 the following terms and conditions.

27 1. MEDICAL RECORD KEEPING COURSE Within 60 calendar days of the effective  
28 date of this Decision, respondent shall enroll in a course in medical record keeping equivalent to

1 the Medical Record Keeping Course offered by the Physician Assessment and Clinical Education  
2 Program, University of California, San Diego School of Medicine (Program), approved in  
3 advance by the Board or its designee. Respondent shall provide the program with any  
4 information and documents that the Program may deem pertinent. Respondent shall participate in  
5 and successfully complete the classroom component of the course not later than six (6) months  
6 after Respondent's initial enrollment. Respondent shall successfully complete any other  
7 component of the course within one (1) year of enrollment. The medical record keeping course  
8 shall be at Respondent's expense and shall be in addition to the Continuing Medical Education  
9 (CME) requirements for renewal of licensure.

10 A medical record keeping course taken after the acts that gave rise to the charges in the  
11 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board  
12 or its designee, be accepted towards the fulfillment of this condition if the course would have  
13 been approved by the Board or its designee had the course been taken after the effective date of  
14 this Decision.

15 Respondent shall submit a certification of successful completion to the Board or its  
16 designee not later than 15 calendar days after successfully completing the course, or not later than  
17 15 calendar days after the effective date of the Decision, whichever is later.

18 2. CLINICAL TRAINING PROGRAM. Within 60 calendar days of the effective date  
19 of this Decision, respondent shall enroll in a clinical training or educational program equivalent to  
20 the Physician Assessment and Clinical Education Program (PACE) offered at the University of  
21 California - San Diego School of Medicine (Program). Respondent shall successfully complete  
22 the Program not later than six (6) months after respondent's initial enrollment unless the Board or  
23 its designee agrees in writing to an extension of that time.

24 The Program shall consist of a Comprehensive Assessment program comprised of a two-  
25 day assessment of respondent's physical and mental health; basic clinical and communication  
26 skills common to all clinicians; and medical knowledge, skill and judgment pertaining to  
27 respondent's area of practice in which respondent was alleged to be deficient, and at minimum, a  
28 40 hour program of clinical education in the area of practice in which respondent was alleged to

1 be deficient and which takes into account data obtained from the assessment, Decision(s).  
2 Accusation(s), and any other information that the Board or its designee deems relevant.  
3 Respondent shall pay all expenses associated with the clinical training program.

4 Based on respondent's performance and test results in the assessment and clinical  
5 education, the Program will advise the Board or its designee of its recommendation(s) for the  
6 scope and length of any additional educational or clinical training, treatment for any medical  
7 condition, treatment for any psychological condition, or anything else affecting respondent's  
8 practice of medicine. Respondent shall comply with Program recommendations.

9 At the completion of any additional educational or clinical training, respondent shall submit  
10 to and pass an examination. Determination as to whether respondent successfully completed the  
11 examination or successfully completed the program is solely within the program's jurisdiction.

12 If respondent fails to enroll, participate in, or successfully complete the clinical training  
13 program within the designated time period, respondent shall receive a notification from the Board  
14 or its designee to cease the practice of medicine within three (3) calendar days after being so  
15 notified. The respondent shall not resume the practice of medicine until enrollment or  
16 participation in the outstanding portions of the clinical training program have been completed. If  
17 the respondent did not successfully complete the clinical training program, the respondent shall  
18 not resume the practice of medicine until a final decision has been rendered on the accusation  
19 and/or a petition to revoke probation. The cessation of practice shall not apply to the reduction of  
20 the probationary time period.]

21 3. MONITORING - PRACTICE Within 30 calendar days of the effective date of this  
22 Decision, respondent shall submit to the Board or its designee for prior approval as a practice  
23 monitor, the name and qualifications of one or more licensed physicians and surgeons whose  
24 licenses are valid and in good standing, and who are preferably American Board of Medical  
25 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal  
26 relationship with respondent, or other relationship that could reasonably be expected to  
27 compromise the ability of the monitor to render fair and unbiased reports to the Board, including  
28 but not limited to any form of bartering, shall be in respondent's field of practice, and must agree



1 to serve as respondent's monitor. Respondent shall pay all monitoring costs.

2 The Board or its designee shall provide the approved monitor with copies of the Decision  
3 and Accusation, and a proposed monitoring plan. Within 15 calendar days of receipt of the  
4 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed  
5 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role  
6 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees  
7 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the  
8 signed statement for approval by the Board or its designee.

9 Within 60 calendar days of the effective date of this Decision, and continuing throughout  
10 probation, respondent's practice shall be monitored by the approved monitor. Respondent shall  
11 make all records available for immediate inspection and copying on the premises by the monitor  
12 at all times during business hours and shall retain the records for the entire term of probation.

13 If respondent fails to obtain approval of a monitor within 60 calendar days of the effective  
14 date of this Decision, respondent shall receive a notification from the Board or its designee to  
15 cease the practice of medicine within three (3) calendar days after being so notified. Respondent  
16 shall cease the practice of medicine until a monitor is approved to provide monitoring  
17 responsibility.

18 The monitor shall submit a quarterly written report to the Board or its designee which  
19 includes an evaluation of respondent's performance, indicating whether respondent's practices are  
20 within the standards of practice of medicine, and whether respondent is practicing medicine  
21 safely, billing appropriately or both. It shall be the sole responsibility of respondent to ensure that  
22 the monitor submits the quarterly written reports to the Board or its designee within 10 calendar  
23 days after the end of the preceding quarter.

24 If the monitor resigns or is no longer available, respondent shall, within 5 calendar days of  
25 such resignation or unavailability, submit to the Board or its designee, for prior approval, the  
26 name and qualifications of a replacement monitor who will be assuming that responsibility within  
27 15 calendar days. If respondent fails to obtain approval of a replacement monitor within 60  
28 calendar days of the resignation or unavailability of the monitor, respondent shall receive a

1 notification from the Board or its designee to cease the practice of medicine within three (3)  
2 calendar days after being so notified respondent shall cease the practice of medicine until a  
3 replacement monitor is approved and assumes monitoring responsibility.

4 In lieu of a monitor, respondent may participate in a professional enhancement program  
5 equivalent to the one offered by the Physician Assessment and Clinical Education Program at the  
6 University of California, San Diego School of Medicine, that includes, at minimum, quarterly  
7 chart review, semi-annual practice assessment, and semi-annual review of professional growth  
8 and education. Respondent shall participate in the professional enhancement program at  
9 respondent's expense during the term of probation.

10 4. NOTIFICATION Within seven (7) days of the effective date of this Decision, the  
11 respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the  
12 Chief Executive Officer at every hospital where privileges or membership are extended to  
13 respondent, at any other facility where respondent engages in the practice of medicine, including  
14 all physician and locum tenens registries or other similar agencies, and to the Chief Executive  
15 Officer at every insurance carrier which extends malpractice insurance coverage to respondent.  
16 Respondent shall submit proof of compliance to the Board or its designee within 15 calendar  
17 days. This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

18 5. SUPERVISION OF PHYSICIAN ASSISTANTS During probation, respondent is  
19 prohibited from supervising physician assistants.

20 6. OBEY ALL LAWS Respondent shall obey all federal, state and local laws, all rules  
21 governing the practice of medicine in California and remain in full compliance with any court  
22 ordered criminal probation, payments, and other orders.

23 7. QUARTERLY DECLARATIONS Respondent shall submit quarterly declarations  
24 under penalty of perjury on forms provided by the Board, stating whether there has been  
25 compliance with all the conditions of probation.

26 Respondent shall submit quarterly declarations not later than 10 calendar days after the end  
27 of the preceding quarter.

28 ///

1 8. GENERAL PROBATION REQUIREMENTS

2 Compliance with Probation Unit

3 Respondent shall comply with the Board's probation unit and all terms and  
4 conditions of this Decision.

5 Address Changes

6 Respondent shall, at all times, keep the Board informed of respondent's business  
7 and residence addresses, email address (if available), and telephone number.  
8 Changes of such addresses shall be immediately communicated in writing to the  
9 Board or its designee. Under no circumstances shall a post office box serve as an  
10 address of record, except as allowed by Business and Professions Code section  
11 2021(b).

12 Place of Practice

13 Respondent shall not engage in the practice of medicine in respondent's or  
14 patient's place of residence, unless the patient resides in a skilled nursing facility  
15 or other similar licensed facility.

16 License Renewal

17 Respondent shall maintain a current and renewed California physician's and  
18 surgeon's license.

19 Travel or Residence Outside California

20 Respondent shall immediately inform the Board or its designee, in writing, of  
21 travel to any areas outside the jurisdiction of California which lasts, or is  
22 contemplated to last, more than thirty (30) calendar days.

23 In the event respondent should leave the State of California to reside or to practice  
24 respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of  
25 departure and return.

26 9. INTERVIEW WITH THE BOARD OR ITS DESIGNEE Respondent shall be  
27 available in person upon request for interviews either at respondent's place of business or at the  
28 probation unit office, with or without prior notice throughout the term of probation.

1           10. NON-PRACTICE WHILE ON PROBATION Respondent shall notify the Board or  
2 its designee in writing within 15 calendar days of any periods of non-practice lasting more than  
3 30 calendar days and within 15 calendar days of respondent's return to practice. Non-practice is  
4 defined as any period of time respondent is not practicing medicine in California as defined in  
5 Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month  
6 in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All  
7 time spent in an intensive training program which has been approved by the Board or its designee  
8 shall not be considered non-practice. Practicing medicine in another state of the United States or  
9 Federal jurisdiction while on probation with the medical licensing authority of that state or  
10 jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall  
11 not be considered as a period of non-practice.

12           In the event respondent's period of non-practice while on probation exceeds 18 calendar  
13 months, respondent shall successfully complete a clinical training program that meets the criteria  
14 of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and  
15 Disciplinary Guidelines" prior to resuming the practice of medicine.

16           Respondent's period of non-practice while on probation shall not exceed two (2) years.

17           Periods of non-practice will not apply to the reduction of the probationary term.

18           Periods of non-practice will relieve respondent of the responsibility to comply with the  
19 probationary terms and conditions with the exception of this condition and the following terms  
20 and conditions of probation: Obey All Laws; and General Probation Requirements.

21           11. COMPLETION OF PROBATION Respondent shall comply with all financial  
22 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the  
23 completion of probation. Upon successful completion of probation, respondent's certificate shall  
24 be fully restored.

25           12. VIOLATION OF PROBATION Failure to fully comply with any term or condition  
26 of probation is a violation of probation. If respondent violates probation in any respect, the  
27 Board, after giving respondent notice and the opportunity to be heard, may revoke probation and  
28 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke

1 Probation, or an Interim Suspension Order is filed against respondent during probation, the Board  
2 shall have continuing jurisdiction until the matter is final, and the period of probation shall be  
3 extended until the matter is final.

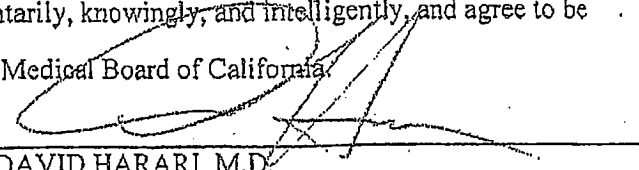
4 13. LICENSE SURRENDER Following the effective date of this Decision, if  
5 respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy  
6 the terms and conditions of probation, respondent may request to surrender his or her license. The  
7 Board reserves the right to evaluate respondent's request and to exercise its discretion in  
8 determining whether or not to grant the request, or to take any other action deemed appropriate  
9 and reasonable under the circumstances. Upon formal acceptance of the surrender, respondent  
10 shall within 15 calendar days deliver respondent's wallet and wall certificate to the Board or its  
11 designee and respondent shall no longer practice medicine. Respondent will no longer be subject  
12 to the terms and conditions of probation. If respondent re-applies for a medical license, the  
13 application shall be treated as a petition for reinstatement of a revoked certificate.

14 14. PROBATION MONITORING COSTS Respondent shall pay the costs associated  
15 with probation monitoring each and every year of probation, as designated by the Board, which  
16 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of  
17 California and delivered to the Board or its designee no later than January 31 of each calendar  
18 year.

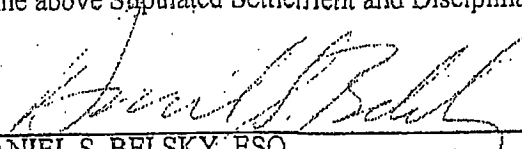
19 ACCEPTANCE

20 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
21 discussed it with my attorney, Daniel S. Belsky, Esq. I understand the stipulation and the effect it  
22 will have on my Physician's and Surgeon's Certificate No. G50027. I enter into this Stipulated  
23 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be  
24 bound by the Decision and Order of the Medical Board of California.

25 DATED: 12/3/14

26   
DAVID HARARI, M.D.  
Respondent

1 I have read and fully discussed with respondent David Harari, M.D., the terms and  
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
3 I approve its form and content.

4 DATED: 12/5/14   
5 DANIEL S. BELSKY, ESQ.  
6 Attorney for Respondent

7 ENDORSEMENT

8 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
9 submitted for consideration by the Medical Board of California of the Department of Consumer  
10 Affairs.

11 Dated: Respectfully submitted,  
12 KAMALA D. HARRIS  
13 Attorney General of California  
14 THOMAS S. LAZAR  
15 Supervising Deputy Attorney General

16 LORI JEAN FORCUCCI  
17 Deputy Attorney General  
18 *Attorneys for Complainant*

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1 I have read and fully discussed with respondent David Harari, M.D., the terms and  
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
3 I approve its form and content.

4 DATED: \_\_\_\_\_

DANIEL S. BELSKY, ESQ.  
Attorney for Respondent


ENDORSEMENT

7 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
8 submitted for consideration by the Medical Board of California of the Department of Consumer  
9 Affairs.

10 Dated: 12.8.14

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
THOMAS S. LAZAR  
Supervising Deputy Attorney General

  
LORI JEAN FORCUCCI  
Deputy Attorney General  
*Attorneys for Complainant*

18 70969122.docx

**Exhibit A**

**Accusation No. 10-2012-222742**



1 KAMALA D. HARRIS  
Attorney General of California  
2 THOMAS S. LAZAR  
Supervising Deputy Attorney General  
3 LORI JEAN FORCUCCI  
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*Attorneys for Complainant*

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO, October 17, 2013  
BY: J. K. K. ANALYST

10 BEFORE THE  
11 MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
12 STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 10-2012-222742

14 DAVID HARARI, M.D.  
5525 Grossmont Center Drive  
15 La Mesa, CA 91942

ACCUSATION

16 Physician's and Surgeon's Certificate  
17 No. G50027

18 Respondent.  
19

20 Complainant alleges:

21 PARTIES

- 22 1. Kimberly Kirchmeyer, (Complainant) brings this Accusation solely in her official  
23 capacity as the Interim Executive Director of the Medical Board of California, Department of  
24 Consumer Affairs, and not otherwise.
- 25 2. On or about June 6, 1983, the Medical Board of California issued Physician's and  
26 Surgeon's Certificate No. G50027 to David Harari, M.D. (Respondent). Physician's and  
27 Surgeon's Certificate No. G50027 was in full force and effect at all times relevant to the charges  
28 brought herein and will expire on November 30, 2014, unless renewed.

## JURISDICTION

3. This Accusation is brought before the Medical Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2220 of the Code states, in pertinent part:

"Except as otherwise provided by law, the board may take action against all persons guilty of violating this chapter [Chapter 5, the Medical Practice Act].

5. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, be publicly reprimanded, or have such other action taken in relation to discipline as the Board deems proper.

6. Section 2234 of the Code states:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter [Chapter 5, the Medical Practice Act].

"(b) Gross negligence.

"(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

"(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

///

///

“(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

46 25  
• • •

7. Section 2266 of the Code states:

"The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct."

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

8. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of the Code, in that he committed gross negligence in his care and treatment of patient R.K., as more particularly alleged hereinafter:

9. On or about October 7, 2008, patient R.K.,<sup>1</sup> a then 48-year-old female, was under the care of her primary care physician who performed a pelvic exam which was described as normal. During that exam, a pap smear test<sup>2</sup> was performed. The interpretation of patient R.K.'s October 7, 2008, pap smear test was abnormal, showing atypical glandular cells of endocervical origin. Patient R.K.'s primary care physician referred her to Respondent.

10. On or about November 17, 2008, patient R.K. had her first appointment with Respondent, who performed colposcopy,<sup>3</sup> cervical biopsy<sup>4</sup> and endocervical curettage.<sup>5</sup>

<sup>1</sup> The patient's initials are used to protect the patient's privacy. The full name of the patient is known to Respondent.

<sup>2</sup> A pap smear is a microscopic examination of cells scraped from the cervix.

<sup>3</sup> Colposcopy is a medical diagnostic procedure to examine an illuminated, magnified view of the cervix and the tissues of the vagina and vulva.

4. Cervical biopsy is the removal of a small piece of living tissue from the cervix, which is then sent to a laboratory for microscopic evaluation. (continued)

(continued...)

1 11. The results of the tests were described on pathology reports as benign, without  
2 evidence of atypical glandular cells. A human papilloma virus screen was negative and  
3 Respondent's impression was a finding of nabothian cysts<sup>6</sup> of the cervix.

4 12. On or about March 19, 2009, patient R.K. returned to see Respondent for a repeat pap  
5 smear test. That test was interpreted as atypical squamous cells of undetermined significance.<sup>7</sup>

6 13. On or about September 10, 2009, Respondent ordered a pelvic ultrasound study,  
7 which was performed on or about September 18, 2009. Patient R.K.'s medical record does not  
8 mention a complaint of pelvic pain.

9 14. On or about the morning of September 24, 2009, the result of the pelvic ultrasound  
10 study was faxed to Respondent, in preparation of patient R.K.'s return visit. At that visit, patient  
11 R.K. saw Respondent for a repeat pap smear test and to discuss her pelvic ultrasound study. The  
12 pap smear test was normal, but the ultrasound report indicated that patient R.K. had an enlarged  
13 uterus, and six fibroids, including three large pedunculated myomas<sup>8</sup> in the top portion of the  
14 uterus, and three smaller intramural<sup>9</sup> uterine fibroids. The ultrasound report was dated September  
15 18, 2009, however the interpretation of that study was dated July 1, 2009. Respondent signed off  
16 on the ultrasound report but failed to recognize that the July 1, 2009, report could not have been  
17 the report on patient R.K.'s September 18, 2009, ultrasound test. Although patient R.K.'s  
18 medical record does not mention a complaint of pelvic pain or vaginal bleeding, Respondent  
19 recorded that he discussed uterine artery embolization and total laparoscopic hysterectomy with  
20 patient R.K.

---

21  
22 <sup>5</sup> Endocervical curettage is a biopsy to scrape the mucous membrane of the cervical canal.

23 <sup>6</sup> A nabothian cyst is formed in a nabothian gland of the uterine cervix, and is a benign  
24 change commonly found in women of reproductive age, who have borne children.

25 <sup>7</sup> Atypical squamous cells of undetermined significance (ASCUS) is a mildly abnormal  
26 reading that may occur when a woman gets a pap smear. This type of abnormal reading may  
mean that the patient will need a few more tests or monitoring.

27 <sup>8</sup> A myoma is a fibroid; pedunculated fibroids hang by stalks inside or outside the uterus.

28 <sup>9</sup> Intramural fibroids are within the muscle walls of the uterus.

1 15. Also on or about the morning of September 24, 2009, a second pelvic ultrasound  
2 report, was faxed to Respondent that correctly identified the patient R.K. and the correct date of  
3 service. September 18, 2009. Respondent also signed off on the second ultrasound report, which  
4 reflected that patient R.K. suffered from a smaller single, focal, intramural myoma and a right  
5 unilocular<sup>10</sup> anechoic cyst<sup>11</sup> on the right ovary. In the second, correct report, the radiologist  
6 described patient R.K.'s changes as consistent with mild, diffuse adenomyosis.<sup>12</sup> The  
7 radiologist's advice with respect to the ovarian cyst, was to obtain a follow-up pelvic ultrasound  
8 to confirm stability of the cyst, as warranted. However, no further imaging studies were ordered  
9 prior to surgery.

10 16. On or about October 10, 2009, a Magnetic Imaging Resonance study was performed,  
11 at Respondent's order, which reported findings similar to the second, correct iteration of the  
12 ultrasound report dated September 18, 2009.

13 17. On or about December 7, 2009, patient R.K. again saw Respondent, at which time  
14 Respondent noted the discrepancy between the results of the first ultrasound, which demonstrated  
15 six fibroids, and the MRI which revealed only a single small, intramural myoma. Respondent  
16 scheduled patient R.K. for robotic-assisted laparoscopic myomectomy and ovarian cystectomy.

17 18. On or about January 14, 2010, patient R.K. saw Respondent for a preoperative history  
18 and physical. Patient R.K.'s medical record of that visit do not show that a pelvic examination  
19 was performed and do not mention any complaint of pain by patient R.K. Respondent's dictated  
20 notes only included the results of the first, incorrect, ultrasound report.

21 19. On or about January 19, 2010, Respondent performed surgery on patient R.K., and  
22 no fibroids were found. During surgery, Respondent removed a small right ovarian cyst, which  
23 was later confirmed to be benign. Patient R.K. remained in the hospital until on or about January  
24 22, 2010, at which time she was discharged. On or about January 23, 2010, patient R.K., returned

25 <sup>10</sup> Unilocular refers to a mass having but one cavity or compartment.

26 <sup>11</sup> An anechoic ovarian cyst is a fluid filled sac that is found on the ovaries.

27 <sup>12</sup> Adenomyosis is a medical condition characterized by the presence of ectopic glandular  
28 tissue found in muscle.

1 to the hospital emergency room complaining of shortness of breath, dizziness and weakness. A  
2 computed tomography (CT) scan of her chest confirmed bilateral pleural effusions<sup>13</sup> and she was  
3 treated.

4 20. On or about February 3, 2010, Respondent performed a post-surgical examination of  
5 patient R.K., who was experiencing a new symptom of tenderness in her left pelvis. On or about  
6 March 5, 2010, Respondent performed the second post-surgical examination of patient R.K., and  
7 recorded a limited physical examination, making no entries about the incision or the uterus. He  
8 noted that the vagina was well-healed, and without infection, even though no vaginal surgery had  
9 been performed on patient R.K. He noted the adnexa<sup>14</sup> to be palpably normal and assessed  
10 patient R.K. as stable and doing well.

11 21. On or about June 9, 2010, patient R.K. continued her post operative care with a  
12 different physician, who documented symptoms of abdominal pain, left lower quadrant  
13 abdominal cramping and a bulge at the umbilical incision site. Patient R.K. had not been feeling  
14 well since her surgery. Upon examination, the new physician documented a tender supra-  
15 umbilical hernia and tenderness in the left lower quadrant of patient R.K.'s abdomen. An  
16 abdominal and pelvic CT examination confirmed that patient R.K. had an incisional hernia, and  
17 she was referred to a general surgeon for its repair.

18 22. Respondent committed gross negligence in his care and treatment of patient R.K.,  
19 which included, but was not limited to, the following:

20 (a) Respondent failed to appropriately manage patient R.K.'s uterine fibroid in that he  
21 performed surgery on patient R.K., based upon an ultrasound report dated July 1, 2009,  
22 before the ultrasound test was actually performed on September 18, 2009.

23 ///

24 ///

25 ///

26 <sup>13</sup> Pleural effusion is a condition in which excess fluid builds around the lung.

27 <sup>14</sup> The adnexa of uterus (or uterine appendages) refers to the structures most closely  
28 related structurally and functionally to the uterus.

## SECOND CAUSE FOR DISCIPLINE

### (Repeated Negligent Acts)

23. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of the Code in that he committed repeated negligent acts in the care and treatment of patient R.K., as more particularly alleged hereinafter:

24. Respondent committed repeated negligent acts in his care and treatment of patient R.K., which included, but was not limited to, the following:

25. Paragraphs 8 through 22, above, are hereby incorporated by reference and re-alleged as if fully set forth herein.

(a) Respondent failed to appropriately manage patient R.K.'s uterine fibroid in that he performed surgery on patient R.K., based upon an ultrasound report dated July 1, 2009, before the ultrasound test was actually performed on September 18, 2009;

(b) Respondent removed patient R.K.'s asymptomatic, benign-appearing right ovarian cyst; and

(c) Respondent failed to document any complaint of abdominal or pelvic pain in patient R.K.'s medical records.

## THIRD CAUSE FOR DISCIPLINE

### (Failure to Maintain Adequate and Accurate Medical Records)

26. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the Code, in that he failed to maintain adequate and accurate records in regards to his care and treatment of patient R.K., as more particularly alleged in paragraphs 8 through 25, above, which are hereby incorporated by reference and re-alleged as if fully set forth herein.

## DISCIPLINARY CONSIDERATIONS

27. To determine the degree of discipline, if any, to be imposed on respondent's Physician's and Surgeon's Certificate No. G50027, Complainant alleges the following factors in aggravation:

///

1 (a) On June 1, 2006, respondent entered into a Stipulated Settlement and  
2 Disciplinary Order in the case entitled "*In the Matter of the Accusation Against: David*  
3 *Harari, M.D.*" Case No. 10-2002-141183, in which he admitted that he failed to adequately  
4 and accurately document obtaining informed consent from patient P.O. and failed to  
5 document the justification for the operative method of delivery.


6 (b) On October 2, 2006, the Board's Decision and Order in Case No. 10-2002-  
7 141183 became effective, and respondent was publicly reprimanded for his failure to  
8 maintain adequate and accurate records in his care and treatment of patient P.O. and,  
9 further, was ordered: (1) to successfully complete a course in medical record keeping; (2)  
10 to provide a copy of the Accusation and Decision and Order to in Case No. 10-2002-  
11 141183 to every hospital and facility where privileges or membership were to him; and (3)  
12 obey all laws.

13 **PRAYER**

14 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
15 and that following the hearing, the Medical Board of California issue a decision:

- 16 1. Revoking or suspending Physician's and Surgeon's Certificate No. G50027, issued to  
17 Respondent DAVID HARARI, M.D.;
- 18 2. Revoking, suspending or denying approval of Respondent DAVID HARARI, M.D.'s  
19 authority to supervise physician's assistants, pursuant to section 3527 of the Code;
- 20 3. Ordering Respondent DAVID HARARI, M.D., if placed on probation, to pay the  
21 Medical Board of California, the costs of probation monitoring; and
- 22 4. Taking such other and further action as deemed necessary and proper.

23  
24 DATED: October 17, 2013

  
KIMBERLY KIRCHMEYER  
Interim Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
Complainant

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